INSTITUTE OF LAW RESEARCH AND REFORM
EDMONTON, ALBERTA

ANNUAL REPORT
1982-83

August, 1983

INSTITUTE OF LAW RESEARCH AND REFORM

EDMONTON, Alberta

ANNUAL REPORT

1982-1983

August 1983

The Institute of Law Research and Reform was established by the Law Society of Alberta, the Government of Alberta, and the University of Alberta for the purposes of law research and reform.

The members of the Board of Directors during the reporting year were:

W.E. Wilson, Q.C. - Chairman
W.F. Bowker, Q.C. - Director Emeritus
J.W. Beames, Q.C.
Professor C.R.B. Dunlop (to 31 December 1982)
G.C. Field, Q.C.
E.J.F. Gamache, Q.C.
W.H. Hurlburt, Q.C.
Professor L.C. Leitch
Professor J.C. Levy
Professor P. Lown (from 1 January 1983 to 28 February 1983)
Professor Thomas W. Mapp
D.B. Mason, Q.C.
Professor R.S. Nozick (from 1 April 1983)
R.M. Paton

The Institute's Counsel were:

W.H. Hurlburt, Q.C. - Director
Margaret A. Shone - Program Planner
J.L. Dewar
A. Dunham
Professor C.R.B. Dunlop (from 1 January 1983)
B. Edmeades
G.C. Field, Q.C.
R.G. Hammond

M. Deborah MacNair (to 16 May 1983)

Professor Thomas W. Mapp

The Institute's offices are located at 402 Law Centre, University of Alberta, Edmonton, Alberta T6G 2H5. Its telephone number is 432-5291.

Table of Contents

INTRODUCTION 1

COMPARISON TO LAW REFORM COMMISSIONS 2

PERSONNEL 3

REPORTS ISSUED IN 1982-83 4

Report No. 37A--The Uniform Evidence Act 1981: A Basis for Uniform Evidence Legislation 4

Report No. 37B--Evidence and Related Subjects: Specific Proporsals for Alberta Legislation 5

Report No. 38--The Uniform Sale of Goods Act 5

CURRENT LAW REFORM PROJECTS 6

(1) Creditors' Remedies for Unsecured Debts 6
(2) Expropriation: Valuation of Security Interests 6
(3) Family Law 7
(a) Representation of Children in Legal Proceedings 7
(b) Living Together Outside Marriage 8
(c) Administration of the Estates of Children 8
(d) Matrimonial and Child Support 9
(e) Alberta Children's Law Committee 9
(4) Freedom of Information and Confidentiality of Government Documents 9
(5) Judicial Review of Administrative Action 10
(6) Labour-Management Relations 10
(7) Land Titles 10
(8) Limitation of Actions 11
(9) Not-for-profit Corporations 11
(10) Provincial Offences: Defences 12
(11) Real Property Securities 12
(12) Statute of Frauds 12
(13) Sterilization of Minors and Mentally Incompetent Adults 12
(14) Survivorship 13
(15) Trade Secrets 13

THE INSTITUTE'S RESEARCH FUNCTION 13

(1) Research Projects 14
(2) Research Grants 14

PUBLICATIONS AND PRESENTATIONS 15

THE INSTITUTE'S RELATIONS WITH THE UNIVERSITIES OF ALBERTA AND CALGARY AND THEIR FACULTIES OF LAW 16

THE INSTITUTE'S RELATIONS WITH THE PRACTISING BAR AND BENCH OF ALBERTA 19

THE INSTITUTE'S RELATIONS WITH OTHER LAW REFORM BODIES 20

ACKNOWLEDGEMENTS 21

APPENDIX A - HISTORY OF THE INSTITUTE 23

APPENDIX B - LIST OF BOARD MEMBERS 25

APPENDIX C - RECORD OF LEGISLATION BASED ON INSTITUTE'S RECOMMENDATIONS 28

APPENDIX D - OTHER PUBLICATIONS 32

INSTITUTE OF LAW RESEARCH AND REFORM

EDMONTON, ALBERTA

ANNUAL REPORT

1 July 1982 - 30 June 1983

INTRODUCTION

In September 1973 the Institute published a Five-Year Report covering the period from 1 January 1968, when the Institute came into existence, to 30 June 1973. We have since issued Annual Reports to 30 June in each year. This Report covers the twelve-month period from 1 July 1982 to 30 June 1983.

The Institute was created in the fall of 1967 by an Agreement between the Government of Alberta, the University of Alberta and the Law Society of Alberta. Its history is summarized in Appendix A. Its objects are:

(a) to conduct and direct research into law and the administration of justice;

(b) to consider matters of law reform with a view to proposing to appropriate authority the means by which the law may be made more useful and effective;

(c) to promote law research and reform; and

(d) to these ends, to work in co-operation with the Faculty of Law of the University of Alberta, the Faculty of Law of the University of Calgary, and with others.

The funding of the Institute is provided by the Government of Alberta, the Alberta Law Foundation, and the University of Alberta. The University contributes a fixed annual amount. Of the remainder of the Institute's approved budget, the Foundation pays 60% and the Attorney General 40%.

The Alberta Law Foundation is a corporate body created by the Legal Profession Act. It is set up to receive interest paid on lawyers' trust accounts where it is not practicable to attribute the interest to the money of specific clients. The Foundation is empowered to distribute the money for the objects set out in the Legal Profession Act, one of which is law research and reform. The Institute gratefully acknowledges the very substantial assistance which it receives from the Foundation.

COMPARISON TO LAW REFORM COMMISSIONS

The Institute functions like a provincial law reform commission. It was, however, created by agreement and not by statute. It selects its own reform projects, though in doing so it is attentive to the views of the Government of Alberta. Over the years it has undertaken many reform projects in response to suggestions of the Attorney General and other cabinet ministers, and one project emanated from a resolution of the Legislature.

The Institute has the additional object of encouraging and carrying out legal research apart from that leading to law reform.

PERSONNEL

The Board of Directors of the Institute is similar to, although larger than, most of the statutory law reform commissions. It now has thirteen members. It ordinarily meets for a full day twice each month. Its members are lawyers, though Professor L.C. Leitch, Vice-President (Finance and Administration) is a member as the designate of th President of the University of Alberta. His role is to provide liaison with the University. He does not attend most meetings of the Board and he is not responsible for the contents of our reports.

Three of the Board's members, the Director and the two Associate Directors, serve full time. The Director and one Associate Director hold academic appointments as Professors of Law. Five members are appointed by the parties to the founding agreement: a nominee of the Alberta Law Society, at the present time an Edmonton practitioner; a nominee the Faculty of Law of the University of Alberta; and two moninees of the Attorney General. These five members and the Director appoint the other members of the Board except for one who is appointed by the Faculty of Law at the University of Calgary. At the present time the members appointed at large consist of the two Associate Directors, the Institute's Director Emeritus, a Calgary practitioner and an Edmonton practitioner. The names, standing, and duration of office of Board members, past and present, are listed in Appendix B.

The composition of our legal staff during the year ranged from nine to ten counsel of whom the Director is one. The designation "counsel" is intended to convey a proper estimation of the full range of functions and responsibilities which every

member of our legal staff performs: analyzing existing legal concepts; formulating new legal concepts; identifying and debating policy issues; writing consultative documents and reports; engaging in the consultative process with members of the public, lawyers, interest groups and government officials at all levels; and drafting legislation.

REPORTS ISSUED IN 1982-83

Report No. 37A--The Uniform Evidence Act 1981: A Basis for Uniform Evidence Legislation

In June of 1982 the Institute published Report No. 37A, The Uniform Evidence Act 1981: A Basis for Uniform Evidence Legislation. In that report the Institute both acknowledged and praised the massive amount of work done to produce the Uniform Evidence Act which was adopted by the Uniform Law Conference in 1981; and went on to set out reasons for favouring adoption of the act subject to a review of the rules regarding evidence in criminal matters. We recommended that the Senate, or a Committee of the Senate, review the proposed act and permit representations to be made in support of conflicting interests. Bill S-33, the draft act, was introduced in the Senate on November 18, 1982 and received second reading on December 7, 1982. The Senate Committee on Legal and Constitutional Affairs commenced hearings in January of 1983 and has been intermittently hearing representations from conflicting interest groups this year. Whether or not the Senate Committee has held these hearings as a consequence of

the recommendations contained in our report, we are gratified that it is doing so.

Report No. 37B--Evidence and Related Subjects: Specific Proposals for Alberta Legislation

Report No. 37B is a companion to Report No. 37A. Ir contains specific proposals for the form and context of a new Alberta Evidence Act,a new Oaths Affirmation s and Witnesses Act, and amendments to the Alberta Rules of Court. The proposed Alberta Evidence Act accepts the Uniform Evidence Act with additions. The other proposals flow from it and from the consequent repealof the existing Alberta Evidence Act.

Report No. 38--The Uniform Sale of Goods Act

Our Report No. 38 - The Uniform Sale of Goods Act, was issued in October, 1982, and deals with the Uniform Sale of Goods Act which was adopted by the Uniform Conference of Canada in 1981. It was drafted by a committee which included one of the Institute's Counsel. Subject to one quaification. The Report recommends that Alberta adopt the Uniform Act with some minor changes. The qualification is that, before the Act is introduced into the Alberta legislature, the Government of Alberta consult with the governments of the other provinces with a view to the general adoption of the Uniform Act and the avoidance of disparity in the law covered by it.

CURRENT LAW REFORM PROJECTS

(1) Creditors' Remedies for Unsecured Debts

In 1978 the Institute published Working Paper No. 10 on Exemptions from Execution and Wage Garnishment. Since that time, a research paper on the use, effectiveness and social impact of wage garnishment has been completed. In January 1982 the Institute decided to take on a more general study of the pre-judgment and post-judgment remedies of unsecured creditors. The earlier work will be incorporated into the broader study.

Since January 1, 1983, when Professor R.C.B. Dunlop joined the Institute staff, he has completed a draft report, entitled Extra-Judicial Collection of Debts, which is being considered by the Institute's Board. He is also conducting a statistical study on the use and operation of unsecured creditors' remedies in three Alberta judicial districts.

(2) Expropriation: Valuation of Security Interests

The Institute published its Report No. 12 on Expropriation in March 1973, and the Expropriation Act, S.A. 1974, c.27 was enacted the following year. In our report we recommended that compensation should be made to the holder of a security interest in accordance with the "market value" of the interest. Our recommendation was carried forward in sections 46, 47 and 50 of the Act (now sections 48, 49 and 52 of the Expropriation Act, R.S.A. 1980, c. E-16). Its adoption put Alberta in a unique position because other Canadian jurisdictions provide for compensation generally on the basis of "payment of outstanding balance".

The market value theory has some worrying problems in relation to security interests, including those demonstrated by the 1980 decision of the Land Compensation Board in Forster Mah Enterprises Ltd. v. The City of Calgary and we have received submissions from the Mortgage Loans Association of Alberta advocating that payment of the outstanding balance be substituted. We accordingly decided to re-examine the subject. In March 1982 we circulated a memorandum on the subject for discussion. The comments received have been considered and the Institute will issue a final report soon.

(3) Family Law

To date we have published six reports on family law: Report No.18--Matrimonial Property (August 1975); Report No. 20--Status of Children (June 1976); Report No. 25--Family Law Administration: The Unified Family Court (April 1978); Report No. 26--Family Law Administration: Court Services (April 1978); Report No. 27--Matrimonial Support (March 1978); and Report No. 29--Family Relief (June 1978). During the current year work proceeded on the topics set out below.

(a) Representation of Children in Legal Proceedings

The project in this area is considering the desirability of having children separately represented; if it is desirable, how best this can be accomplished whether by an Amicus Curiae, a guardian ad litem or separate counsel; and in what proceedings the child should or should not be represented. Our work should be ready for consideration by the Board of the Institute in the fall of 1983.

(b) Living Together Outside Marriage

An empirical study which examines the nature of the relationship outside marriage as well as the attitudes and circumstances of parties to marital and non-marital relationships was begun in February 1982. Funding for this empirical research was provided by the Alberta Department of Social Services and Community Health and an interdisciplinary committee continues to assist the Institute in the conduct of the study.

During the summer of 1982 personal interviews, telephone interviews and a direct mailing of the questionnaire were carried out to determine the costs of each method, a rough estimate of the frequency of the relationship throughout the general population and to compare the results obtained from each method of soliciting information. Our consultant completed his final report on the first phase of the study in February of 1983. Phase II, which will involve improvements to the questionnaire and a random mail out of 2,000 copies of it in each of Edmonton and Calgary, should be completed early in 1984.

(c) Administration of the Estates of Children

This project was adopted in response to concerns raised by representatives of the Public Trustee's office. As was stated in our last annual report, a research paper prepared for us by Professor R. Hopp of the Faculty of Law, University of Alberta, indicates that the law is in a state of considerable confusion. Further work on the project has been delayed until our resources permit.

(d) Matrimonial and Child Support

Our last two annual reports mentioned an international invitational conference on Matrimonial and Child Support held in Edmonton in May, 1981, which was convened and hosted by the Institute. In October, 1982, the Institute published the "Conference Materials" which were produced for and at that conference. Included in these materials are four academic papers presented at the conference, a list of the policy issues which were discussed by the participants, and a summary of those discussions. The conference materials were sent to a mailing list which included the participants, most law school libraries in Canada, and many foreign countries, and many family law teachers in Canadian law schools.

(e) Alberta Children's Law Committee

The work of this interdepartmental committee of the Alberta government was completed in the fall of 1982. The final report of the committee should, it is hoped, be submitted to the government of Alberta in the very near future. We hope that legislation based in part on our Report No. 14 - Minor's Contracts (January 1975), Report No. 19 - Consent of Minors to Health Care (December 1975), and Report No. 20 - Status of Children (June 1976) will soon follow.

(4) Freedom of Information and Confidentiality of Government Documents

This project has remained in abeyance throughout the report year.

(5) Judicial Review of Administrative Action

The first phase of our work in this area is a simplification of procedure to combine in one procedural route the prerogative remedies of certiorari, prohibition, mandamus and quo warranto with the non prerogative remedies of declaration and injunction. We have completed this phase subject only to discussions with members of the practicing bar who are knowledgeable in the area, and we hope to issue a report in the fall of 1983. We will then consider the second phase dealing with the substantive law.

(6) Labour-Management Relations

The object of this project is to conduct a comprehensive survey of the law relating to labour-management relations, particularly the resolution of disputes, with analysis and assessment of the effectiveness of various types of law and an assessment of the Alberta environment. The work has proceeded under the direction of an inter-disciplinary committee chaired by A.M.S. Melnyk, Q.C., and having as its current members Dr. E.G. Fisher and Dr. C. Brian Williams. All three are professors in the Faculty of Business Administration and Commerce, University of Alberta. The committee had submitted a preliminary report last year. Recent economic changes and the differing reactions of the federal and some provincial governments to seek part of the solution to current economic problems by changes in attitude and legislation regarding labour relations have persuaded the committee that a revision of the report is necessary.

(7) Land Titles

The Institute project on Land Titles is a joint project with the Yukon and Northwest Territories, Saskatchewan and Manitoba.

Members of the Institute's legal staff completed a preliminary draft report with a proposed Uniform Land Titles Act in December 1982 to serve as a basis for consultation with members of the joint project committee on land registration and titles. A shortage of available staff has, however, again delayed progress on this project.

(8) Limitation of Actions

Work on our Limitation of Actions project continued during the year. A proposed Limitations Act with comments is at an advanced drafting stage. This act is based on a new strategy which we believe will make limitations' law more comprehensible, more efficient and more just than it is at present. We are proceeding with caution however, because the limitations system that we are considering is based on a radically new approach to the subject. We hope to publish a report for discussion during the 1983-84 report year.

(9) Not-for-profit Corporations

The Business Corporations Act, S.A. 1981, c. B-15, which is based largely upon the Institute's 2-volume Report No. 36--Proposals for a New Alberta Business Corporations Act (August 1980), came into force on 1 February, 1982. That Act makes no provisions for not-for-profit corporations which continue to be governed by Part 9 of the Companies Act, R.S.A. 1980, c. C-20. The Institute is currently working on a proposed not-for-profit corporations act which will replace the provisions presently contained in Part 9 of the Companies Act, the Societies Act, the Cemetery Companies Act, the Religious Societies Land Act and perhaps the Religious Societies Act. A substantial amount of the

basic research has been completed and it is hoped that a preliminary report will be available towards the end of the next reporting year.

(10) Provincial Offences: Defences

By letter dated 8 March 1982, the Deputy Attorney General asked the Institute to undertake a study of the defences available to charges under provincial statutes. Having agreed to do so, we retained Professor J.C. Robb, Faculty of Law, University of Alberta as a consultant to analyze the state of the existing law, present his views together with reform choices in report form, and give us his recommendations. The Board of the Institute has now reviewed Professor Robb's preliminary report and has made some suggestions for change. Our final report should be ready for distribution late in the fall of 1983.

(11) Real Property Securities

Work on this project continued throughout the report year.

(12) Statute of Frauds

We are awaiting our consultant's report on the Statute of Frauds, which we expect to receive during 1983. We hope then to be able to issue a formal report.

(13) Sterilization of Minors and Mentally Incompetent Adults

No further work has been done on this project pending the hearing of Re Eve, in the Supreme Court of Canada The case has not yet been heard and the project has been delayed until the decision in that case has been given.

(14) Survivorship

The Institute has engaged Professor M. Litman of the Faculty of Law, University of Alberta to examine the existing Alberta Survivorship Act and the recent reports of the British Columbia and Manitoba Law Reform Commissions in this area. It is expected that his report will be submitted to the Institute within the next reporting year.

(15) Trade Secrets

In January 1983 the Federal Department of Justice, as part of its continuing review of the Criminal Code, requested the assistance of one of our counsel to participate in an interdepartmental study to determine what forms of improper interference with a computer, if any, should invoke a criminal sanction, and what could or should be left to a civil law remedy. The Institute agreed to the request. One of our counsel has prepared a paper on the subject and given evidence before the House of Commons Committee on Computer Crime, which has recently reported. The paper also deals with the civil law remedy, and the Institute's Board is considering what further action to take on it.

THE INSTITUTE'S RESEARCH FUNCTION

The Institute's title and its stated objects show that one of our purposes is to foster legal research which is not necessarily connected with reform. We continue to pursue the objective of encouraging legal research in a variety of ways.

(1) Research Projects

Professor Percy's papers mentioned in our last annual report, were submitted to the annual meeting of the Uniform Law Conference held at Montebello, Quebec, in August of 1982 and were published in the proceedings of the meeting as Annexes I and II to Appendix i. The Conference postponed consideration of the issues raised in the papers to its next annual meeting in August of 1983. The Institute will await the decision and the discussion of the conference on these matters before giving any consideration to reviewing the recommendations made in its Report No. 31.

We reported previously that we have commissioned research to determine the extent, if any, to which the law of Alberta provides for the use of the French language in the judicial system. This work is being conducted by Professor G.L. Gall of the Faculty of Law, University of Alberta, but work has been suspended on this project pending the hearing of an appeal to the Court of Appeal of Alberta in the case of R v Lefebrve (1983) 141 DLR (3d) 460. We understand that the appeal will be heard in the fall of 1983, and if no further appeal is permitted or taken, we shall return to the project following the judgement of the Court of Appeal of Alberta.

(2) Research Grants

We have, almost since our inception, offered research grants for worthwhile research studies. The grants cover travel costs, the costs of a research assistant, secretarial and incidental expenses, but not remuneration for the grantee. Over the years, a number of law professors have taken advantage of these grants.

Due to budgetary restraints imposed by the difficult economic times, we have temporarily suspended any grants. There are none outstanding at the present time.

PUBLICATIONS AND PRESENTATIONS

Closely related to our research function is the presentation and publication of learned papers by members of our legal staff. Contributions of this nature are often prompted by work on law reform projects although they may not be directly connected with them.

Professors Allison Dunham and Thomas W. Mapp, both counsel to the Institute, presented two papers during the Real Property program at the annual meeting of the Association of American Law Schools in Cincinnati, Ohio in January of 1983. The subject of the program was: "Transferrrring Land Titles, Is Reform Possible?" The program was devoted to a discussion and comparison of the Uniform Simplication of Land Transfers Act (USA) and the new land registration and titles system being developed in western Canada under the joint project on land titles in which the Institute is participating. The two commentators at the program were Professor Lance Liebman of Harvard, and Professor Quintin Johnstone of Yale.

During the year, Institute Counsel published the following:

R. Grant Hammond, "Compensation for the Lost Value of Money: A Canadian Proposal," (1983) 99 L.Q.R. 68.

Thomas W. Mapp, "Law Reform in Canada: The Impact of the Provincial Law Reform Agencies on Uniformity," (1983) 7 Dalhousie L.J. 277

THE INSTITUTE'S RELATIONS WITH THE UNIVERSITIES OF ALBERTA AND CALGARY AND THEIR FACULTIES OF LAW

The University of Alberta, as one of the Institute's founding bodies, contributes to the annual budget. In addition, several years ago the University earmarked for the Institute a gift of $25,000 from a private donor to be used for the purchase of books. This gift has enabled us to build up a useful library, and is still partly unexpended.

The University of Alberta also makes very substantial contributions in other ways. It provides fine quarters in the Law Centre. It handles the Institute's funds, and the Comptroller pays all accounts so the Institute is relieved of doing its own bookkeeping and writing its own cheques.

The main liaison with the University administration is through the Vice-President (Finance and Administration) who, as the designate of the President of the University, is a member of the Institute's Board, who attends meetings of the Board. whenever matters affecting the Institute's relations with the University are on the agenda and who is always available for consultation. The Faculty of Law of the University of Alberta also designates one of its members to serve on our Board. Professor R.S. Nozick currently holds this position.

Over the years we have received much assistance on our law reform projects from members of the Faculty of Law at the University of Alberta and we have every reason to believe that this happy situation will continue in the future. During the reporting year Professor J.C. Robb completed research on the defences available to charges under provincial statutes and is

preparing a report for us. Professor M.M. Litman has recently been retained to prepare a report on survivorship. Professor D.P. Jones continued to serve as consultant to our project on judicial review of administrative action.

In 1982 the University entered into a more formal arrangement with the Institute. The Institute will hire a member of the Faculty of Law on a full-time basis (or the equivalent in part-time services) as a continuing program. The Faculty member will transfer to the Institute on either a full time or half time basis for one or two years, depending on the needs of the Institute and the wishes of the faculty member. Professor C.R.B. Dunlop joined us under the arrangement on January 1, 1983, for a two year period. Because this program would otherwise reduce the law school teaching staff by one full time member, the University granted to the Faculty an additional faculty position.

We believe that this secondment program will benefit both the Institute and the Faculty of Law. A law reform project can often be accomplished more efficiently and more competently by an academic with extensive knowledge of the subject area. Under this program the Institute can "fish in the law faculty pond" and hire academics for limited periods of time to undertake specific projects. At varying times in their careers, many law professors would like a respite from their teaching loads and an opportunity to concentrate their efforts on a research, analysis and a writing project which can lead to law reform. The Institute can now provide that opportunity.

In addition, Professors A.S. Melnyk, Q.C., E.F. Fisher, and Brian Williams of the Faculty of Business Administration and Commerce continued to work on our labour-management relations

project.

Customarily, some of our counsel give courses in the Faculty of Law. Professor Thomas W. Mapp taught a course in land titles and M.A. Shone taught a course in law and psychiatry. Professor Allison Dunham taught a course in commercial law and Professor Mapp also gave two lectures on landlord and tenant law to the entire first year law class.

Our relationship with the University of Calgary since the inception of its Faculty of Law has been a matter of satisfaction to us as well. The Agreement continuing the Institute entered into on the 31st of March 1982 made formal provision for the inclusion of a member of the Faculty of Law of the University of Calgary on our Board; a member had been included since the inception of the Faculty. Professor J.C. Levy holds the current appointment.

We have been the fortunate recipient of the assistance of members of other Faculties at the University of Calgary. Professor Gayle C. James and Dr. R. Nutter of the Faculty of Social Welfare continued to serve on the interdisciplinary committee responsible for steering the empirical work on living together outside marriage.

For the summer of 1983 we have employed seven students from the Faculty of Law, University of Alberta. They are: Susan Bercov, Brenda Conlin, Kerry Dyte, Elaine Hughes, Deborah Huitema, Lori Marshall and Shawna Vogel-Gregson. These students are doing valuable work for us in connection with various projects.

THE INSTITUTE'S RELATIONS WITH THE PRACTISING BAR AND BENCH OF ALBERTA

The Institute strives to maintain a close connection with the legal profession and Bench in the province. The Law Society is, of course, one of our constituting bodies and we send copies of our final reports and published consultative documents to the Benchers of the Law Society and, in many cases, to every law firm in the province. We also distribute our publications to superior court judges as a matter of course, and to judges of the Provincial and Family Courts where the subject matter is likely to be of interest to them. In reply we have received many valuable comments and suggestions from lawyers and judges.

The Bench have given us much help in one or another of our law reform projects. Mr. Justice S.S. Lieberman of the Court of Appeal and Mr. Justice D.C. McDonald of the Court of Queen's Bench as designates of their respective Chief Justices, provide helpful liaison with the Institute project on judicial review of administrative action. The Rules of Court Committee under the chairmanship of Mr. Justice W.A. Stevenson, has been very helpful whenever our work involves a consideration of the Alberta Rules of Court. The Bar have also given us much help. The Administrative Law subsection of the Northern Alberta Branch of the Canadian Bar Association have assisted us in our judicial review project, and the Legal Forum (a discussion group comprised of senior Edmonton practitioners and members of the Bench) gave advice.

For our part, we are happy to share with the profession information concerning our projects and to impart the knowledge which we have acquired while working on them.

THE INSTITUTE'S RELATIONS WITH OTHER LAW REFORM BODIES

Associate Director Thomas W. Mapp attended the annual meeting of representatives of Canadian Law Reform bodies held at Montebello, Quebec on 22 August 1982. As has become the custom, this useful opportunity for exchange on matters of common concern preceded the meeting of the Uniform Law Conference of Canada held from 22-27 August, which Professor Mapp also attended. Various members of our legal staff have regularly attended the meetings of the Uniform Law Conference of Canada which are held in August of each year. In this report we discussed Report No. 37 on the Uniform Evidence Act at page 4, our report Number 38 on the Uniform Sale of Goods Act on page 5 and our assistance to the conference with its draft Contributory Negligence and Concurrent Wrongdoers Act on page 13. Members of the Institute's legal staff have consistently contributed to the work of the conference as individuals. Our Director is an Alberta Commissioner and regularly attends the annual meetings of the conference, but during the report year he was away on study leave. Over the years members of our board have frequently been Alberta Commissioners. Because the conference is often working on law reform projects which either are or may in the future be of interest to the Institute, this co-operation is mutually beneficial.

In recent years the Institute has frequently supported the Uniform Law Conference on a more formal basis. For example, members of the Institute's legal staff served on the Conference Committees which drafted the Uniform Evidence Act and the Uniform Sale of Goods Act. At its 1982 annual meeting the Conference authorized the appointment of a committee to prepare a further

report on the Uniform Products Liability Act for the conference. Two members of our legal staff, G.C. Field and Baz Edmeads are serving on this committee. The other members of the committee are representatives of the Law Reform Commissions of Ontario, Manitoba and Saskatchewan.

ACKNOWLEDGEMENTS

We continue to enjoy a happy relationship with the Attorney General, the Honourable Neil S. Crawford, Q.C. It is our custom to meet with him annually and we find the opportunity for exchange beneficial. We also appreciate the fine relationship which we maintain with the Deputy Attorney General, R.W. Paisley, Q.C., upon whose good services we frequently call.

Our legal staff are an integral part of our operation and the high quality of their work is a crucial component of our success as an Institute. We extend sincere thanks to our counsel for the outstanding work performed by each and every one.

During the reporting year three of our counsel have gone on to other things. Ms. M.D. McNair, who was on leave from September 1982 to study legislative drafting in Ottawa, left in May of 1983 to take a position with the Privy Council Office. Mr. J.L. Dewar departed on the 30 June, 1983, to enter private practice in Calgary. Professor Allison Dunham will be retiring to California.

It is our pleasure to welcome R. Grant Hammond to our staff. He joins us from the Faculty of Law at Dalhousie University. Mr. Hammond practiced law in New Zealand and served on various law reform committees in that country. He then taught

at the University of Illinois and Dalhousie before joining us. As we mentioned earlier in the report Professor C.R.B. Dunlop has joined us for two years under a transfer agreement with the Faculty of Law, University of Alberta.

We are perennially grateful to our secretarial staff whose efficient execution of their heavy workload, amid the distraction of learning the techniques of our new word processors, has been performed cheerfully and willingly. We thank them for their considerable contribution to our work.

W.E. WILSON
W.F. BOWKER
J.W. BEAMES
G.C. FIELD
E.J.F. GAMACHE
W.H. HURLBURT
J.C. LEVY
T.W. MAPP
D.B. MASON
R.S. NOZICK
R.M. PATON

CHAIRMAN

ACTING DIRECTOR

August 1983

APPENDIX A

HISTORY OF THE INSTITUTE

In 1964 the Benchers of the Law Society of Alberta established the Law Reform Committee. It had fourteen members selected from the judiciary, the profession and the Faculty of Law of the University of Alberta. It had no full time members, no staff and no funds. This Committee made one major set of recommendations in connection with limitation of actions in tort. These recommendations were enacted as Part 9 of the Limitations Act (S.A. 1966, c. 49). The Committee also passed on to the Government two or three Acts recommended elsewhere, notably personal property security, survival of actions, and perpetuities. These Acts were not passed. Before long both the Benchers and the Committee concluded that as constituted the Committee could not operate effectively as a law reform agency. The Benchers proposed a more formal and permanent research body to be located in the University of Alberta. Both the provincial government and the University welcomed the proposal. The details were worked out during 1967 and on 15 November of that year an Agreement was signed by the three parties. It was the first of a succession of Agreements to form the Institute's "constitution".

The original Agreement covered the period from 1 January 1968 to 31 March 1973. It was amended on 30 August 1971 to extend the period to 31 March 1977.

The 1971 Agreement was the last one entered into during the first stage of funding of the Institute. Until 1973 the funding was provided entirely by the Government of Alberta and the University of Alberta in fixed annual amounts. In that year the Alberta Law Foundation agreed to make substantial grants for the next five years, and those grants together with the contrilbutions of the Government and the University funded the Institute until 31 March 1976. On 1 April 1976 the previous arrangement was superseded by the next one which provided, after deduction of the University's contribution, for the sharing of the Institute's approved budget between the Foundation as to 60% and the Attorney General as to 40%, except during the 1976-1977 fiscal year when the Foundation's proportion was higher.

The commencement of funding by the Foundation in 1974 made it possible to increase the Institute's staff and raise the level of its activity. The 1976 arrangement, which continued in force until 31 March 1982 under the Agreement of 31 March 1977, provided for further staff increases and brought the Institute to its existing predicted optimum level of activity premised on a continuing complement of ten staff lawyers. The subsisting Agreement, entered into 31 March 1982, continues the Institute under the same funding arrangement for a further five years to 31 March 1987. This Agreement enlarged the size of the Board of Directors and introduced changes in its composition.

The Institute has always been housed on the University of Alberta campus. In 1968, it opened a very modest office in the Faculty of Law with Dean Wilbur Bowker as its director and only member of legal staff. Four and a half years later, after a period of time spent in that and other offices, it took up its present quarters in the Law Centre. During the period of time intervening since 1968, its staff has grown to the capacity for

eight lawyers and two full-time and two part-time members of secretarial staff.

APPENDIX B

LIST OF BOARD MEMBERS

Present Members

J.W. Beames, Q.C.
Member at large - August 1979 to present

W.F. Bowker, Q.C.
Director - January 1968 to August 1975
Director Emeritus - September 1975 to present

G.C. Field, Q.C.
Member at large - April 1981 to present

E.J.F. Gamache, Q.C.
Attorney General's representative - February 1979 to present

W.H. Hurlburt, Q.C.
Law Society representative - November 1967 to January 1970
Member at large - February 1970 to January 1971
Law Society representative and Chairman - February 1971 to December 1973
Member at large and Associate Director - January 1974 to August 1975
Director - September 1975 to present

Professor L.C. Leitch
University of Alberta representative (Vice-President (Finance and Administration)) - February 1980 to present

Professor J.C.Levy
University of Calgary Faculty of Law representative - December 1981 to present.

T.W. Mapp
Member at large - April 1981 to present

D.B. Mason, Q.C.
Member at large - February 1979 to present

Professor R.S. Nozick
University of Alberta Faculty of Law representative -March 1983 to present

R.M. Paton
Attorney General's representative - May 1982 to present

W.E. Wilson, Q.C.
Law Society representative - June 1976 to present

Former Members

G.W. Acorn, Q.C.
Attorney General's representative - November 1967 to January 1969

Professor D. Trevor Anderson

University of Alberta Faculty of Law representative - November 1967 to June 1971

Margaret Donnelly
Attorney General's representative - June 1976 to February 1979

Professor C.R.B. Dunlop
University of Alberta Faculty of Law representative -September 1981 to December 1982

H.G. Field, Q.C.
Law Society representative and Chairman - November 1967 to February 1971

R.P. Fraser, Q.C.
Member at large - June 1970 to January 1976
Law Society representative - January 1976 to February 1979

Dean G.H.L.Fridman
Member at large (University of Alberta Faculty of Law) - February 1971 to June 1975

S.A. Friedman, Q.C.
Attorney General's representative - November 1967 to November 1970

J.E. Hart, Q.C.
Attorney General's representative - November 1967 to January 1969

Wm. Henkel, Q.C.
Attorney General's representative - December 1970 to June 1976

Professor R.G. Hopp
University of Alberta Faculty of Law representative - August 1979 to September 1981

Dr. M. Horowitz
University of Alberta representative (Vice-President (Academic)) - July 1975 to July 1979

Professor Constance D. Hunt
Member at large (University of Calgary Faculty of Law) July 1980 to June 1981

Dr. Henry Kreisel
University of Alberta representative (Vice-President (Academic)) - September 1970 to June 1975

Professor F.A. Laux
University of Alberta Faculty of Law representative - September 1972 to May 1976

Professor P. Lown
University of Alberta Faculty of Law representative - January 1983 to February 1983

Dr. A.G. McCalla
University of Alberta representative (Vice-President

(Academic)) - November 1969 to May 1970

Dean J.P.S. McLaren
Member at large (University of Calgary Faculty of Law) - January 1976 to June 1980

Robert R. Neve (deceased)
Member at large - April 1970 to May 1970

J.S. Palmer
Law Society representative - November 1967 to February 1970

Professor Julien Payne
University of Alberta Faculty of Law representative - July 1971 to June 1972

Professor Ellen Picard
Member at large - June 1975 to December 1975
University of Alberta Faculty of Law representative - May 1976 to July 1979

Justice W.A. Stevenson
University of Alberta Faculty of Law representative - August 1969 to January 1970
Member at large - February 1970 to December 1973
Law Society representative and Chairman - January 1974 to January 1976
Member at large and Chairman - January 1976 to July 1979

Dr. A.R. Thompson
University of Alberta Faculty of Law representative - November 1967 to June 1969

Dr. Max Wyman
University of Alberta representative (Vice-President (Academic)) - November 1967 to March 1969

APPENDIX C

RECORD OF LEGISLATION BASED ON INSTITUTE'S RECOMMENDATIONS

Formal Report - Number and Title	Legislation
No. 1--Compensation for Victims of Crime (1968)	Criminal Injuries Compensation Act, R.S.A. 1970, c. 75
No. 2--Powers of Personal Representatives to Grant Options (June 1969)	Wills Act, R.S.A. 1970, c. 393, s. 30 Devolution of Real Property Act, R.S.A. 1970, c. 109, s. 13
No. 3--Occupiers' Liability (December 1969)	Occupiers' Liability Act, S.A. 1973, c. 79
No. 4--Age of Majority (January 1970)	Age of Majority Act, S.A. 1971, c. 1
No. 5--Guarantees Acknowledgement Act, R.S.A. 1970, c. 173 (October 1970)	
No. 6--Rule Against Perpetuities (August 1971)	Perpetuities Act, S.A. 1972, c. 131
No. 7--Joinder of Divorce Proceedings with other Causes of Action (August 1971)	Alberta Rules of Court, Rule 563(3), Alta. Reg. 315/71
No. 8--Assignment of Wages (October 1971)	Wage Assignments Act, S.A. 1972, c. 61
No. 9--Rule in Saunders v. Vautier (February 1972)	S.A. 1973, c. 13, s. 12 amending the Trustee Act, R.S.A. 1970, c. 373, s. 37
No. 10--Powers of Maintenance and Advancement (June 1972)	S.A. 1974, c. 65, s. 9 amending the Trustee Act, R.S.A. 1970, c. 373, ss. 31-33
No. 11--Common Promisor and Promisee: Conveyances with a Common Party (October 1972)	Common Parties Contracts and Conveyances Act, S.A. 1974, c. 20 amended 1975, c. 5 (2 sess.)
No. 12--Expropriation (March 1973)	Expropriation Act, S.A. 1974, c. 27
No. 13--Judicature Act, Section 24 (August 1974)	S.A. 1974, c. 65, s. 9 striking out s. 24 of the Judicature Act, R.S.A. 1970, c. 193

No. 14--Minors' Contracts (January 1975)	
No. 15--Validity of Rules of Court (December 1974)	S.A. 1976, c. 58, s. 6(4) amending the Judicature Act, R.S.A. 1970, c. 193, s. 39
No. 16--Rule in Hollington v. Hewthorn (February 1975)	S.A. 1976, c. 57, s. 1 amending the Alberta Evidence Act, R.S.A. 1970, c. 127, s. 27
No. 17--Small Projects (June 1975)	S.A. 1976, c. 55, s. 2 amending the Workers' Compensation Act, S.A. 1973, c. 87, s. 15; S.A. 1976, c. 58, s. 3 amending the Bulk Sales Act, R.S.A. 1970, c. 37.
No. 18--Matrimonial Property (August 1975)	Matrimonial Property Act, S.A. 1978, c. 22, enacting a combination of the majority and minority proposals for the distribution of matrimonial property, and an extension of the recommendations on possession of the matrimonial home
No. 19--Consent of Minors to Health Care (December 1975)	
No. 20--Status of Children (June 1976)	
No. 21--Purchase by a Company of Shares Which It Has Issued (January 1977)	S.A. 1977, c. 13, s. 2 amending the Companies Act, R.S.A. 1970, c. 60, s. 41 (superseded by S.A. 1981, c. B-15, ss. 32 and 33: see Report No. 36)
No. 22--Residential Tenancies (February 1977)	Landlord and Tenant Act, 1979, S.A. 1979, c. 17, based in large part on our recommendations
No. 23--Partition and Sale (March 1977)	Partition and Sale Act, S.A. 1979, c. 59
No. 24--Survival of Actions and Fatal Accidents Act Amendment (April 1977)	Survival of Actions Act, S.A. 1978, c. 35
No. 25--Family Law Administration: the Unified Family Court (April 1978)	

No. 26--Family Law Administration: Court Services (April 1978)	
No. 27--Matrimonial Support (March 1978)	S.A. 1977, c. 64 amending Part 4 of the Domestic Relations Act, R.S.A. 1970, c. 113; S.A. 1977, c. 92 amending the Social Development Act, R.S.A. 1970, c. 345; S.A. 1978, c. 49, s. 2 amending the Debtors' Assistance Act, R.S.A. 1970, c. 86 (The above amendments deal with the enforcement of support orders and are based on recommendations made in conjunction with a government committee. Recommendations pertaining to the principles upon which support is awarded have not been acted on to date.)
No. 28--Tenancies of Mobile Home Sites (April 1978)	Mobile Home Sites Tenancies Act, S.A. 1982, c. M-18.5
No. 29--Family Relief (June 1978)	
No. 30--The Builders' Lien Act: Certain Specific Problems (March 1979)	
No. 31--Contributory Negligence and Concurrent Wrongdoers (April 1979)	
No. 32--Guest Passenger Legislation (April 1979)	Proclamation 5 July 1979 of previously enacted S.A. 1977, c. 76, s. 6 to come into force 1 September 1979 (This is not the principal recommendation of the Report.)
No. 33--Inter-Spousal Tort Immunity (April 1979)	
No. 34--Service of Documents During Postal Interruptions (June 1979)	S.A. 1980, c. 88
No. 35--Defamation: Fair Comment and Letters to the Editor (October 1979)	S.A. 1980, c. 11 amending the Defamation Act, R.S.A. 1970, c. 87
No. 36--Proposals for a New Alberta	Business Corporations

Business Corporations Act (August 1980), 2 vols. — Act, S.A. 1981, c. B-15

No. 37A--The Uniform Evidence Act 1981: A Basis for Uniform Evidence Legislation (June 1982)

No. 37B--Evidence and Related Subjects: Specific Proposals for Alberta Legislation (June 1982)

No. 38--The Uniform Sale of Goods Act (October 1982)

APPENDIX D

OTHER PUBLICATIONS

Annual Reports

Five Year Report 1968-1973
Annual Report 1973-1974
Annual Report 1974-1975
Annual Report 1975-1976
Annual Report 1976-1977
Annual Report 1977-1978
Annual Report 1978-1979
Annual Report 1979-1980
Annual Report 1980-1981
Annual Report 1981-1982

Research Reports

No. 1--Rent Control: Security of Tenures (November 1975)
No. 2--Entry of Landlord: Locks and Security Devices (November 1975)
No. 3--Obligation to Repair; Security Deposits (November 1975)
No. 4--Termination Procedures; Failure of Tenants to Pay Rent; Overholding Tenants (November 1975)
No. 6--Resolution of Disputes; Landlord and Tenant (Advisory) Boards; Distress (November 1975)
No. 7--Contract or Property Law; Form and Delivery of Lease; Right to Assign or Sublet (November 1975)
No. 8--Mobile Homes (November 1975)
No. 9--Consent of Minors to Medical Treatment (May 1975)
No. 10--Illegitimacy (June 1974)
No. 11--Administration of Family Law: The Unified Family Court: Constitutional Opinions (May 1978)
No. 12--Statute of Frauds (May 1979)
No. 13--Matrimonial Support Failures: Reasons, Profiles, and Perceptions of Individuals Involved (Canadian Institute for Research in the Behavioral and Social Sciences: May 1981)
No. 14--Conference Materials, International Invitational Conference on Matrimonial and Child Support, 27-30 May 1981 (October 1982)

Books

Sir Victor Windeyer, Some Aspects of Australian Constitutional Law (1972)

Thomas W. Mapp, Torrens' Elusive Title: Basic Legal Principles of an Efficient Torrens' System (1978) (Alta. L.R. Book Series, v. 1)

The Alberta Limitations Manual, Butterworth & Co. (Western Canada) Ltd., 1979. (Although not prepared by the Institute, the Manual was based upon a list of statutory limitation periods in Alberta originally prepared by members of the Institute's legal staff.)

Olive M. Stone, The Child's Voice in the Court of Law, Butterworth & Co. (Canada) Ltd., 1982. (Dr. Stone's book is based on work done for the Institute while she was employed full-time as consultant on our Family Law Project).